

PATENT COOPERATION TREATY

From the
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

PCT

WRITTEN OPINION

(PCT Rule 66)

To: MICHAEL J. MALLIE BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP 12400 WILSHIRE BOULEVARD, 7TH FLOOR LOS ANGELES, CALIFORNIA 90025

Date of Mailing <i>(day/month/year)</i>	21 MAR 2003
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Applicant's or agent's file reference 42390.P14868XPCT		REPLY DUE within TWO months from the above date of mailing	
International application No. PCT/US02/07672	International filing date <i>(day/month/year)</i> 15 MARCH 2002	Priority date <i>(day/month/year)</i> 16 MARCH 2001	
International Patent Classification (IPC) or both national classification and IPC IPC(7): H01S 3/10, 3/06 and US Cl.: 372/20, 92			
Applicant NEW FOCUS, INC.			

1. This written opinion is the <u>first</u> (first, etc.) drawn by this International Preliminary Examining Authority.	
2. This opinion contains indications relating to the following items: <ul style="list-style-type: none"> I <input checked="" type="checkbox"/> Basis of the opinion II <input type="checkbox"/> Priority III <input type="checkbox"/> Non-establishment of opinion with regard to novelty, inventive step or industrial applicability IV <input type="checkbox"/> Lack of unity of invention V <input checked="" type="checkbox"/> Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement VI <input type="checkbox"/> Certain documents cited VII <input type="checkbox"/> Certain defects in the international application VIII <input type="checkbox"/> Certain observations on the international application 	
3. The applicant is hereby invited to reply to this opinion. <p>When? See the time limit indicated above. The applicant may, before the expiration of that time limit, request this Authority to grant an extension, see Rule 66.2(d).</p> <p>How? By submitting a written reply, accompanied, where appropriate, by amendments, according to Rule 66.8. For the form and the language of the amendments, see Rules 66.8 and 66.9.</p> <p>Also For an additional opportunity to submit amendments, see Rule 66.4. For the examiner's obligation to consider amendments and/or arguments, see Rule 66.4 bis. For an informal communication with the examiner, see Rule 66.6.</p> <p>If no reply is filed, the international preliminary examination report will be established on the basis of this opinion.</p>	
4. The final date by which the international preliminary examination report must be established according to Rule 69.2 is <u>16 JULY 2003</u>	

Name and mailing address of the IPEA/US Commissioner of Patents and Trademarks Box PCT Washington, D.C. 20231	Authorized officer ARMANDO RODRIGUEZ
Facsimile No. (703) 305-3230	Telephone No. (703) 308-6218

WRITTEN OPINION

International application No.

PCT/US02/07672

I. Basis of the opinion

1. With regard to the **elements** of the international application:*☒ the international application as originally filed☒ the description:

pages 1-34

pages NONE, as originally filed

pages NONE, filed with the demand

pages NONE, filed with the letter of

☒ the claims:

pages 35-41

pages NONE, as originally filed

pages NONE, as amended (together with any statement) under Article 19

pages NONE, filed with the demand

pages NONE, filed with the letter of

☒ the drawings:

pages 1-20

pages NONE, as originally filed

pages NONE, filed with the demand

pages NONE, filed with the letter of

☒ the sequence listing part of the description:

pages NONE

pages NONE, as originally filed

pages NONE, filed with the demand

pages NONE, filed with the letter of

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language _____ which is:

☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).☐ the language of publication of the international application (under Rule 48.3(b)).☐ the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the written opinion was drawn on the basis of the sequence listing:☐ contained in the international application in printed form.☐ filed together with the international application in computer readable form.☐ furnished subsequently to this Authority in written form.☐ furnished subsequently to this Authority in computer readable form.☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.4. ☒ The amendments have resulted in the cancellation of:☒ the description, pages NONE☒ the claims, Nos. NONE☒ the drawings, sheets/fig. NONE5. ☐ This opinion has been drawn as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this opinion as "originally filed".

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V. Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. statement

Novelty (N)	Claims	<u>NONE</u>	YES
	Claims	<u>1-5+</u>	NO
Inventive Step (IS)	Claims	<u>NONE</u>	YES
	Claims	<u>1-5+</u>	NO
Industrial Applicability (IA)	Claims	<u>1-5+</u>	YES
	Claims	<u>NONE</u>	NO

2. citations and explanations

Claims 1-8,10,13-15,19-25,27,30-32,36-47,49-54 lack novelty under PCT Article 33(2) as being anticipated by Terada et al. (5,214,659). As illustrated in figure 4, angles of inclination of the two wavelength selection elements (3) and (4) arranged on an optical path of a laser beam source are varied to make a laser output variable. Light transmitting ranges of the two wavelength selection elements are coincided with each other so as to adjust the light wavelength bands, thereby the laser beam is narrowed without increasing its fineness.

Claims 9,11,12,16-18,26,28,29,33-35 and 48 lack an inventive step under PCT Article 33(3) as being obvious over Terada. As shown in figure 4 inclinations angles of the fine adjusting etalon 3 and the rough adjusting etalon 4 can be varied by the actuators 12a and 12b, respectively. Terada teaches adjustment of the etalons to obtain the a variable laser output, where the techniques of thermo and electrical adjustment would be obvious design preference since such techniques are well-known in the art.

Claims 1-54 meet the criteria for industrial applicability set out in PCT Article 33(4), because the claimed subject matter is useful in the electrical industry.

ANY RESPONSE MAY BE FAXED TO
OFFICE OF THE SPECIAL PROGRAMS EXAMINER
TECHNOLOGY CENTER 2800
(703) 305-0848

----- NEW CITATIONS -----

US 5,214,659 (TERADA et al) 25 May 1993 (25.05.1993), entire document

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Supplemental Box

(To be used when the space in any of the preceding boxes is not sufficient)

Continuation of: Boxes I - VIII

Sheet 10

TIME LIMIT:

The time limit set for response to a Written Opinion may not be extended. 37 CFR 1.484(d). Any response received after the expiration of the time limit set in the Written Opinion will not be considered in preparing the International Preliminary Examination Report.